

## **RESOLUTION NO. RS2019-1598**

### **A resolution providing for the censure of Megan Barry, former Mayor of the Metropolitan Government of Nashville and Davidson County.**

WHEREAS, on February 7, 2018, Davidson County resident Theeda Murphy filed a formal Complaint with the Board of Ethical Conduct of the Metropolitan Government of Nashville and Davidson County ("Board of Ethical Conduct") against Megan Barry, former Mayor of the Metropolitan Government of Nashville and Davidson County, alleging that then-Mayor Barry had violated certain provisions of the Metropolitan Government's Standards of Ethical Conduct, Metropolitan Code § 2.222.020 (the "Standards of Ethical Conduct") and Executive Order 005; and

WHEREAS, pursuant to Section 2.222.040(C)(1)(e) of the Metropolitan Code of Laws, the Metropolitan Department of Law – acting through the law firm of Klein Bussell, PLLC (now Klein Solomon, PLLC) -- evaluated Ms. Murphy's Complaint and issued a report to the Board; and

WHEREAS, on March 7, 2018, the Board of Ethical Conduct conducted a public meeting to evaluate the Department of Law's report and to decide whether to dismiss the Complaint or to hold a hearing on the matter. The Board dismissed certain components of the Complaint but voted to move forward with other components; and

WHEREAS, on June 4, 2018, Ms. Murphy filed a second Complaint with the Board against Ms. Barry. Ms. Murphy's June 4th Complaint restated allegations from her February 7th Complaint, but included additional factual allegations related to Ms. Barry's conditional guilty plea to felony theft and subsequent resignation. Ms. Murphy also re-stated a complaint under Executive Order 005; and

WHEREAS, as with the prior Complaint, the Department of Law, through Klein Bussell, PLLC, issued a report evaluating whether the facts alleged, if true, could be deemed a violation of the Standards of Conduct. On August 21, 2018, the Board conducted a public meeting to evaluate the report and accepted the report's conclusion that the Complaint did not state a viable claim under Executive Order 005. The Board further concluded that the Complaint's new factual allegations did not justify a separate hearing by the Board, but rather should be considered when the Board proceeded to a full hearing; and

WHEREAS, on December 19, 2018, the Board of Ethical Conduct conducted a hearing to determine whether former Mayor Barry had violated certain provisions within the Standards of Ethical Conduct; specifically, Sections (g), (i), and (k) of the Standards of Conduct which provide that Metropolitan Government employees, including elected officials,

- g. Shall not receive or use for personal purposes any property, services or funds of metropolitan government unless authorized by law;
- ...
- i. Shall not use their Metropolitan Government positions improperly to secure unwarranted privileges or exemptions for themselves, relatives or others, provided, however, that this provision does not preclude employees from acting in a manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;
- ...
- k. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their

official duties, or that they are unduly affected by the kinship, rank, position or influence of any person;  
and

WHEREAS, following deliberations, the Board concluded that former Mayor Barry had not violated Section (g), but had violated Sections (i) and (k) of the Standards of Ethical Conduct. Upon the Board's conclusion, the Board voted to refer this matter to the Metropolitan Council with a recommendation that the Council censure Ms. Barry; and

WHEREAS, on January 10, 2019, the Board issued a formal Order which summarized the procedural history of the filed complaints, as well as the Board's conclusions and recommendations in regard thereto, and which further declared as follows:

Based upon the evidence presented and argument of counsel, IT IS THEREFORE ORDERED BY THE BOARD OF ETHICAL CONDUCT, that:

1. Ms. Barry VIOLATED Sections (i) and (k) of the Metropolitan Nashville Standards of Conduct, set forth in Metropolitan Code 2.222.020.
2. Pursuant to Metropolitan Code 2.222.040(C)(3)(a), this matter is hereby referred to the Metropolitan Council with a recommendation that the Council censure Ms. Barry on this basis.

WHEREAS, Section 2.222.050 of the Metropolitan Code of Laws provides that, upon receipt of a recommendation from the board that an elected official or member of a board or commission be censured by the Council, the chairman of the Rules-Confirmations-Public Elections Committee "shall file a resolution with the metropolitan clerk providing for censure of the member."

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metro Council does hereby go on record as censuring Megan Barry, former Mayor of the Metropolitan Government of Nashville and Davidson County, for conduct and actions on her part which were committed in violation of Sections (i) and (k) of the Metropolitan Government's Standards of Ethical Conduct, set forth in Metropolitan Code of Laws, Section 2.222.020.

Section 2. That this resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

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Antoinette Lee  
Member of Council